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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/092,530

03/08/2002

Claude Dubief

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22852 7590 02/08/2006

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
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EXAMINER

CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/092,530	<b>Applicant(s)</b> DUBIEF ET AL.	
	<b>Examiner</b> Lakshmi S. Channavajjala	<b>Art Unit</b> 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 30,32-39,42-50,52-59 and 61-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30,32-39,42-50,52-59 and 61-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11-9-05</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Receipt of response and IDS dated 11-9-05 is acknowledged.

Claims 30, 32-39, 42-50, 52-59 and 61-68 are pending in the instant application.

The following rejection has been maintained for the reasons of record:

Claims 30, 32-39, 42-50, 52-59 and 61-68 are rejected under 35 USC 103(a) as being unpatentable over US 4,744,978 to Homan et al (Homan) in view of WO 93/23009 (WO '009).

A complete rejection under this statute can be found in the previous action.

### ***Response to Arguments***

Applicant's arguments 11-09-05 have been fully considered but they are not persuasive.

Applicants argue that the examiner admits the lack of the claimed polysiloxane skeleton. It is argued the examiners' reasoning for combining the teachings of Homan with Kumar, so as to remedy the deficiencies of Homan, is not proper because there is no motivation to combine Kumar with Homan except for that found in the Application's specification. It is argued that examiner failed to show all the claimed limitations, provide the motivation for one of an ordinary skill in the art to make the claimed invention and a reasonable expectation of success. Applicants argue that Homan does not teach "at least one aqueous dispersion of insoluble particles of at least one cationic polymer", because the reference teaches polymers that are soluble in water (mentioned in col. 5,

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lines 31-37). However, Homan clearly teaches cationic, organic polymers that soluble or readily dispersible in water (col. 4, lines 39-49). In addition, Homan teaches the same polymers that are also claimed as well as described in the instant application. Further, Homan also states that using cationic polymers are known in the art for their substantivity that enables them to become fixed to the hair and remain on hair. Thus, Homan teaches dispersions of cationic polymers in aqueous solutions and their use in combination with siloxanes as aerosols, gels or lotions for hair care. Homan not only teaches solutions of cationic polymer but also teach dispersion of the polymer (col. 5, lines 15-22). Applicants' argument that Homan and Kumar fail to teach the motivation for selecting an aerosol composition is not persuasive because Homan admittedly teach aerosols. Applicants' argue that Kumar teaches lipsticks, rouges, tooth pastes etc., in addition to hair care compositions such as shampoo, rinse and hair setting compositions, but fails to teach the claimed aerosols. However, the primary reference teaches aerosols containing cationic polymer. The motivation to add the polysiloxanes of Kumar in the composition of Homan comes from the teaching of Kumar that the claimed polysiloxanes in hair care (along with other skin care, tooth paste etc.,) for imparting excellent brilliance, gloss, style retention etc. Applicants admit that the claimed silicones are known in the art (Kumar). Thus, the combination of references applied clearly provides the motivation. Applicants argue that the combination does not provide improved results. However, both the references teach hair care products and thus constitute analogous art. Accordingly, the one of an ordinary skill in the art would have employed the polysiloxanes of WO in the teachings of Homan with an expectation

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to achieve at least an additive hair care/styling effect with the combination of siloxanes and cationic polymer, if not synergistic effect. Applicants' argue with respect that polysiloxanes of Homan are different from that of Kumar and hence cannot substitute one with another. However, instant "comprising" language allows for the presence of siloxanes of Homan along with the silicone polymer of Kumar.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 9.00 AM -6.30 PM

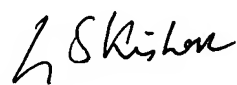
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lakshmi S. Channavajjala  
Examiner  
Art Unit 1615

February 6, 2006



Gollamudi S. Kishore, PhD  
Primary Examiner  
Group 1600